

HOUSE BILL 1319

By Eldridge

AN ACT to amend Tennessee Code Annotated, Title 37,
Chapter 1, Part 1, relative to juvenile court
proceedings.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 37-1-107(d), is amended by inserting the following language after the third sentence:

However, if the child pleads guilty or no contest before the magistrate in a delinquency or unruly proceeding, the child waives the right to request an adjudicatory hearing before the judge and the judge may not order an adjudicatory hearing in such proceeding. If the plea includes an agreement as to disposition, the child also waives the right to request a hearing before the judge regarding disposition and the judge may not order a hearing in such proceeding. Nothing herein alters the court's jurisdiction to hear post-dispositional issues, including, but not limited to, judicial reviews or collateral challenges.

SECTION 2. Tennessee Code Annotated, Section 37-1-110(a)(1), is amended by inserting the language "attachment or" after the language "does not authorize the" in the last sentence.

SECTION 3. Tennessee Code Annotated, Section 37-1-110(b), is amended by adding the following language as a new subdivision:

() Attachment and detention of a child are not authorized for the violation of a pretrial diversion agreement unless otherwise permitted by this part.

SECTION 4. Tennessee Code Annotated, Section 37-1-122(b)(1), is amended by deleting the language "§ 37-1-110 or".

SECTION 5. Tennessee Code Annotated, Section 37-1-122(b)(1)(A), is amended by deleting the subdivision and substituting instead the following:

- (A) The child poses a significant likelihood of:
 - (i) Significant injury or sexual assault to another person;
 - (ii) Danger to self, such that a delay would endanger the child's safety or health; or
 - (iii) Damage to property.

SECTION 6. Tennessee Code Annotated, Section 37-1-122(b), is amended by adding the following language as a new subdivision:

- () A child may not be detained pursuant to an attachment under this subsection (b), unless the child meets the criteria of § 37-1-114.

SECTION 7. Tennessee Code Annotated Section, 37-1-129(a)(1), is amended by deleting the subdivision in its entirety and substituting instead the following:

- (a)
 - (1) If a child alleged to be delinquent or unruly enters a plea of guilty or no contest, or after an adjudicatory hearing, the court may defer further proceedings and place the child on judicial diversion and probation subject to reasonable conditions, which may include completion of substance abuse and mental health treatment services where appropriate, without entering a judgment of guilty and with the consent of the child. For delinquent offenses, such reasonable conditions must be consistent with a validated risk and needs assessment. Probation conditions must not include a period of detention or placing the child in custody of the department, but may include a transfer or grant pursuant to § 37-1-131(a)(1). A child must not be placed on judicial diversion if the delinquent act alleged is an offense described in § 37-1-153(b)(2), if the child has previously been adjudicated delinquent for such an offense, or if the matter is dismissed after a hearing on the merits.

SECTION 8. Tennessee Code Annotated, Section 37-1-137(a)(1)(B), is amended by deleting the subdivision in its entirety and substituting instead the following:

(B) If a juvenile offender is tried and adjudicated delinquent in juvenile court for the offense of first degree murder, second degree murder, rape, aggravated rape, rape of a child, aggravated rape of a child, aggravated sexual battery, kidnapping, especially aggravated kidnapping, aggravated robbery, especially aggravated robbery, aggravated arson, aggravated burglary, especially aggravated burglary, commission of an act of terrorism, carjacking, or violations of § 39-17-417(b), (i) or (j), or an attempt to commit any such offenses, or has been previously adjudicated delinquent in three (3) felony offenses arising out of separate criminal episodes at least one (1) of which has resulted in institutional commitment to the department of children's services, or is within six (6) months of the child's eighteenth birthday at the time of the adjudication of the child's delinquency, the commitment may be for a determinate period of time but in no event shall the length of the commitment be greater than the sentence for the adult convicted of the same crime, nor shall such commitment extend past the offender's nineteenth birthday. Commitment under this section shall not exceed the sentences provided for by the Tennessee Criminal Sentencing Reform Act of 1989, compiled in title 40, chapter 35, and in no event shall a juvenile offender be sentenced to Range II or Range III.

SECTION 9. Tennessee Code Annotated, Section 37-1-146, is amended by deleting subsections (a) and (b) in their entirety and substituting instead the following:

(a) All cases of alleged traffic violations by children coming within this part shall be heard and disposed of upon a traffic ticket or citation signed by a law enforcement officer that describes in general terms the nature of the violation. Such cases may be disposed of through informal adjustment, pretrial diversion, or judicial diversion; in any

case, however, the child or the child's parents may request and shall be granted a hearing before the judge.

(b) If the court finds that the child violated a traffic law or ordinance, the court may adjudicate the child to be a traffic violator, and the court may make one (1) or any combination of the following decisions:

- (1) Suspend and hold the child's driver license for a specified or indefinite time;
- (2) Limit the child's driving privileges as an order of the court;
- (3) Order the child to attend traffic school, if available, or to receive driving instructions;
- (4) Impose a fine of not more than fifty dollars (\$50.00) against the child's parent or legal guardian;
- (5) Perform community service work in lieu of a fine; or
- (6) Place the child on probation pursuant to § 37-1-131(a)(2).

SECTION 10. Tennessee Code Annotated, Section 37-1-159(a), is amended by inserting the following language after the first sentence:

However, if the child pleads guilty or no contest in a delinquency or unruly proceeding, the child waives the right to appeal the adjudication. If the plea includes an agreement as to disposition, the child also waives the right to appeal the disposition.

SECTION 11. Sections 7 and 8 of this act shall take effect July 1, 2019, the public welfare requiring it. All other sections of this act shall take effect upon becoming a law, the public welfare requiring it.